

LAW AND PUBLIC SAFETY

DIVISION OF GAMING ENFORCEMENT

Proposed Readoption: Suspicious Transaction Reporting by Casino Licensees
N.J.A.C. 13:69

Authorized By: _____
Thomas N. Auriemma, Director, Division of Gaming Enforcement

Authority: N.J.S.A. 5:12-129.1 et seq., specifically 5:12-129.4.

Calendar Reference: See Summary below for explanation of exception to calendar
requirements.

Proposal Number: PRN 2005-341

Submit written comments by November 18, 2005 to:

DAG Wendy Alice Way

Division of Gaming Enforcement

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The agency proposal follows:

Summary

N.J.A.C. 13:69, Suspicious Transaction Reporting by Casino Licensees, is scheduled to expire on October 16, 2005. By filing this notice of proposed readoption prior to October 16, 2005, the chapter expiration date has been extended for 180 days to April 14, 2006. See N.J.S.A. 52:14B-5.1c.

N.J.A.C. 13:69 was originally adopted by the Director of the Division in 2000. See 32 N.J.R. 3860(b). Since that time, the Director of the Division has continued to review and update its provisions. In specific, a set of amendments was adopted effective July 5, 2005. See 37 N.J.R. 2552(a). The main object of these amendments was to achieve an additional level of reporting on currency transactions involving or aggregating \$200,000 or more in a gaming day. See N.J.A.C. 13:69-1.7. The balance of the amendments were nonsubstantive or involved the codification of existing practices relative to Suspicious Activity Reports by Casinos and Card Clubs (SARCs) and Currency Transaction Reports By Casinos (CTRCs). See N.J.A.C. 13:69-1.6.

The Director has reviewed the chapter and determined the rules to be necessary, reasonable and suitable to the intended purpose. The chapter is proposed for readoption at this time without further amendment.

The Casino Control Act (Act), P.L. 1999, c.352, N.J.S.A. 5:12-129.1 et seq., requires casino licensees to report suspicious transactions involving or aggregating at least \$5,000 to the Director of the Division of Gaming Enforcement (Division). The rules promulgated thereunder at N.J.A.C. 13:69 amplify the definition of a suspicious transaction and create a regulatory framework for reporting same. N.J.A.C. 13:69-1.1 contains definitions. It further provides that the suspicious transaction reporting requirement applies only to casino licensees thereby exempting from coverage holders of casino service industry or other types of licenses issued pursuant to the Act.

N.J.A.C. 13:69-1.2 reflects a clear intent on the part of the Director of the Division to avoid duplicative reporting of suspicious transactions. To that end, the rule provides that timely filing with the Division of a copy of the U.S. Department of the Treasury, Financial Crimes

Enforcement Network's Suspicious Activity Report by Casinos (SARC) in accordance with the filing instructions applicable thereto, as same may be amended or supplemented from time to time, shall satisfy the New Jersey reporting requirement.

N.J.A.C. 13:69-1.3 sets forth filing procedures and deadlines applicable to suspicious transactions. Further, it reiterates the statutory penalty provisions applicable to casino licensees who knowingly fail to report, or who knowingly cause a person having that responsibility to fail to report, a suspicious transaction.

N.J.A.C. 13:69-1.4 enumerates specific document retention parameters for both casino licensees and the Director of the Division. In addition, it amplifies the statutory mandate that the Division make copies of all suspicious transaction reports filed pursuant to the statute available to any State or Federal law enforcement agency by requiring that said request be made in writing.

N.J.A.C. 13:69-1.5 prohibits a casino licensee or any director, officer, employee or agent of a casino licensee who reports a suspicious transaction from notifying any person involved in the transaction that the transaction has been reported as suspicious and further requires any casino licensee or any director, officer, employee or agent of a casino licensee who has been subpoenaed or otherwise requested to disclose the reporting of a suspicious transaction to promptly notify the Division of the request and its response thereto.

This notice of proposed readoption is not required to be referenced in a rulemaking calendar since a public comment period of 60 days is being provided. See N.J.A.C. 1:30-3.3(a)5.

Social Impact

N.J.A.C. 13:69 has proven itself to be an efficient and effective methodology for detecting and preventing money laundering, structuring and other types of financial crimes in the gaming environment. Continued application of its provisions will have a direct, positive impact

on the operational integrity of New Jersey's gaming industry and, as a corollary, on the overall stability and integrity of legitimate business and financial institutions throughout the State.

Economic Impact

By its terms, N.J.A.C. 13:69 reflects a clear intent on the part of the Director of the Division to avoid duplicative and overly burdensome reporting of suspicious transactions by New Jersey casino licensees already subject to suspicious transaction and currency transaction requirements on the Federal level. State requirements notwithstanding, compliance with these existing Federal reporting requirements necessitates that New Jersey casino licensees maintain data collection and review systems capable of identifying potentially reportable transactions. In view of this, readoption of N.J.A.C. 13:69 effects only a modest economic impact as the actual costs associated with compliance largely relate to duplicating, for filing in New Jersey, SARCs and CTRCs which must be filed on the Federal level. Expiration of these rules would deprive the State of an important mechanism for detecting and preventing money laundering, structuring and other types of financial crimes in the gaming environment.

Federal Standards Statement

The New Jersey suspicious transaction reporting requirements, as enacted in N.J.S.A. 5:12-129.1 et seq. and the rules promulgated thereunder at N.J.A.C. 13:69, became effective on October 16, 2000. The New Jersey requirements impose standards and reporting criteria similar in nature and scope to those imposed at the Federal level effective March 25, 2003 at 31 C.F.R. 103.21. The Federal standards compel casinos subject to the Bank Secrecy Act to report suspicious activity. In an effort to avoid duplicative reporting by New Jersey casino licensees, the New Jersey rules allow filing of a copy of the form utilized to effectuate the Federal filing, as hereafter amended or supplemented, to satisfy the New Jersey reporting requirements with regard

to that same transaction. The New Jersey requirements differ from the Federal requirements in one material respect. The Federal requirements require reporting where the casino licensee “knows, suspects or has reason to suspect” that the transaction is potentially reportable whereas New Jersey omits the more objective criteria and requires reporting only where the casino licensee “knows or suspects” that the transaction is potentially reportable. Thus, although the New Jersey statute and the rules promulgated thereunder incorporate the use of the Federal SARC form, as amended or supplemented, the election to forego the objective reporting standard reflects a clear intent not to exceed Federal standards and requirements in the subject area.

Jobs Impact

The rules proposed for readoption are not expected to have an impact upon jobs, including the generation or loss of jobs, in the gaming industry or any other sector of the State’s economy.

Agriculture Industry Impact

The rules proposed for readoption will have no impact on the agriculture industry of this State.

Regulatory Flexibility Statement

A regulatory flexibility analysis is not required. The rules proposed for readoption apply only to casino licensees, none of which is a “small business” as that term is defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., because they employ more than 100 persons full-time within the State of New Jersey.

Smart Growth Impact

The rules proposed for readoption are expected to have no impact on the achievement of

smart growth and implementation of the State Development and Redevelopment Plan.

Full text of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 13:69.